

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMERICAN PATENT DEVELOPMENT :
CORPORATION, LLC, :
: Plaintiff, :
: :
v. : Civil Action No. 07-605-JJF
: :
MOVIELINK, LLC, :
: Defendant. :
:

O R D E R

WHEREAS, Defendants Movielink, LLC and Blockbuster Inc. (collectively "Defendants") filed a Motion To (1) Apply The Court's Non-Infringement Summary Judgment Ruling To Blockbuster And (2) To Direct Entry Of A Final Judgment Pursuant To Rule 54 (b) (D.I. 159);

WHEREAS, by their Motion, Defendants request the Court to (1) conclude that its previous decision on summary judgment that Defendant Movielink did not infringe the patent-in-suit applies to Defendant Blockbuster, such that the Court should conclude that Defendant Blockbuster also did not infringe, (2) enter final judgment in favor of Defendants on Plaintiffs' claims of infringement; (3) stay Defendants' invalidity counterclaim pending appeal; and (4) address Plaintiffs' claims for attorneys' fees and costs in due course;

WHEREAS, Plaintiff opposes the separation of attorneys' fees and costs from final judgment and disputes the nature in which the Court's prior summary judgment ruling (D.I. 155, 156) should

be applied to Defendant Blockbuster (D.I. 161);

WHEREAS, the Court concludes that the previous summary judgment ruling (D.I. 155, 156) applies to Defendant Blockbuster, to the extent that Blockbuster is involved in this action, because Blockbuster's liability is limited to its involvement with the Movielink service which is inherently tied to Movielink's non-infringement;

WHEREAS, the Court further concludes that attorneys' fees and costs can be appropriately addressed after the entry of final judgment without violating the goal of judicial efficiency, See Bundinich v. Becton Dickinson & Co., 486 U.S. 196, 200 (1988); Am. Soc'y For Testing & Materials v. Corrpro Cos., 478 F.3d 557, 567 (3d Cir. 2007); Johannsen v. Pay Less Drug Stores Northwest, Inc., 918 F.2d 160, 164 (Fed. Cir. 1990);

NOW THEREFORE, IT IS HEREBY ORDERED that

1. Defendants' Motion To (1) Apply The Court's Non-Infringement Summary Judgment Ruling To Blockbuster And (2) To Direct Entry Of A Final Judgment Pursuant To Rule 54(b) (D.I. 159) The instant Motion (D.I. 159) is GRANTED.

2. The parties shall submit to the Court a proposed Final Judgment Order within **ten (10)** days of the date of this Order.

July 30, 2010
DATE


UNITED STATES DISTRICT JUDGE